IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 30TH JANUARY, 2007 /10TH MAGHA, 1928

WA.No. 2398 of 2006 - E

(AGAINST THE ORDER IN WPC.NO.33220/2006 Dated 14/12/2006)
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APPELLANT/PETITIONER:

T.SAJEEV,
ASSISTANT TEACHER,
AKTMLP SCHOOL, MANALVAYAL,
KOZHIKODE DISTRICT.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

RESPONDENTS:
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1. THE STATE OF KERALA,
REP. BY ITS SECRETARY,
DEPARTMENT OF GENERAL EDUCATION,
THIRUVANANTHAPURAM.

2. THE ASSISTANT EDUCATIONAL OFFICER,
THAMARASSERY,
KOZHIKODE DISTRICT.

3. THE HEADMASTER,
AKTMLP SCHOOL,
MANALVAYAL, KOZHIKODE DISTRICT.

R1 & R2 BY GOVT.PLEADER SRI.SANDESH RAJA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30/01/2007,

THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M. RAMACHANDRAN & S.SIRI JAGAN, JJ.

W.A.NO. 2398 of 2006 – E

Dated this the 30th day of January, 2007

J U D G M E N T

Ramachandran, J.

Against the interim order, the petitioner has come in appeal. Although there was a fixation granted in the year 1997 and the appellant/petitioner was drawing a higher scale, objection had arisen on a later date, and it was found as objectionable to grant reliefs of surplus and weightage on the basis of the service rendered by broken periods.

2. The issue presently is under attack in W.P.(C) No.33220 of 2006.

3. The appellant had submitted that till such time a final decision was taken, the steps for recovery were to be kept in abeyance. But, the learned Judge was not inclined to grant the reliefs. The appeal has been filed therefrom.

4. Heard Advocate Sri.Suresh Kumar. He relies on Rules 6 and 61 of Chapter XIV A of the Kerala Education Rules and contends that fixation already granted was

correct and later interpretation may not be just. However, in these proceedings, it may not be possible for this Court to go to these aspects since the matter is not finally heard by the learned Judge in the writ petition. However, we direct that recovery consequent to the impugned order is to be kept in abeyance, but this will not prevent the respondents from refixing the salary and the appellant will be entitled to salary so fixed till such time the writ petition is disposed of, especially since the issue is governed by the orders passed by this Court.

The writ appeal is disposed of as above.

M. RAMACHANDRAN
(JUDGE)

S.SIRI JAGAN
(JUDGE)

Mbs/

M. RAMACHANDRAN &
S. SIRI JAGAN, JJ

W.P.(FC).NO. OF 200

J U D G M E N T

DATED: -11-2006